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Wyandott Constitution.

Constitution of the State of Kansas;

Adopted at Wyandott, July 20, 1859.

ORDINANCE.

Whereas, the Government of the United States is the proprietor, and a large portion of the Lands included in the limits of the State of Kansas as defined by this Constitution; and whereas the State of Kansas will possess the right to tax said lands for purposes of government, and for other purposes; Now, therefore, be it ordained by the people of Kansas to such lands, relinquished forever, and the State of Kansas will not interfere with the title of the United States to such lands, nor with any regulation of Congress in relation thereto, nor tax non-residents higher than residents: *Provided*, always, that the following conditions be agreed to by Congress:

SECTION 1. Sections numbered sixteen and thirty-six in each township in the State, including Indian reservations and Trust lands, shall be granted to the State for the exclusive use of Common Schools; and when either of said sections, or any part thereof, has been disposed of, or any other of equal value, as nearly contiguous thereto as possible, shall be substituted therefor.

Sec. 2. That seventy-two sections of land shall be granted to the State for the erection and maintenance of a State University.

Sec. 3. That thirty-six sections shall be granted to the State for the erection of public buildings.

Sec. 4. That seventy-two sections shall be granted to the State for the erection and maintenance of charitable and benevolent institutions.

Sec. 5. That all salt springs, not exceeding twelve in number, with six sections of land adjacent to each, together with all mines, with the lands necessary for their full use, shall be granted to the State for works of public improvement.

Sec. 6. That five per centum of the proceeds of the public lands in Kansas, disposed of after the admission of the State into the Union, shall be paid to the State for a fund, the income of which shall be used for the support of Common Schools.

Sec. 7. That the five hundred thousand acres of land to which the State is entitled under the Act of Congress entitled "An Act to appropriate the proceeds of the sales of public lands and grant pre-emption rights," approved September 8th, 1841, shall be granted to the State for the support of Common Schools.

Sec. 8. That the lands hereinbefore mentioned shall be selected in such manner as may be prescribed by law; such selection to be subject to the approval of the Commissioner of the General Land Office of the United States.

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be inviolate; and all persons may freely speak, write or publish the sentiment on all subjects, being responsible for the abuse of such right; and in all civil or criminal actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the alleged libelous matter was published for justifiable ends, the accused party shall be acquitted.

Sec. 12. No person shall be transported from the State for any offense committed within the same, and no conviction in the State shall carry a corruption of blood or forfeiture of estate.

Sec. 13. Treason shall consist only in levying war against the State, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the overt act, or confession in open court.

Sec. 14. No soldier shall, in time of peace, be quartered in any house without the consent of the occupant, nor in time of war, except as prescribed by law.

Sec. 15. The right of the people to be secure in their persons and property against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons or property to be seized.

Sec. 16. No person shall be imprisoned for debt except in cases of fraud.

Sec. 17. No distinction shall ever be made between citizens and aliens in reference to the purchase, enjoyment or descent of property.

Sec. 18. All persons, for injuries suffered in person, reputation or property, shall have remedy by due course of law, and justice administered without delay.

Sec. 19. No law shall be enacted which shall confer any honor, emolument, honor, or privilege shall ever be granted or conferred by the State.

Sec. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

SECTION II.—LEGISLATIVE.

Section 1. The Executive Department shall consist of a Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General, and Superintendent of Public Instruction; who shall be chosen by the electors of the State at the time and place of voting for members of the Legislature, and shall hold their offices for the term of two years from the second Monday of January, next after their election, and until their successors are elected and qualified.

Sec. 2. Until otherwise provided by law, an abstract of the returns of every election, for the officers named in the foregoing section, shall be sealed up and transmitted by the Clerks of the Boards of Canvassers of the several counties, to the Secretary of State, who, with the Lieutenant Governor and Attorney General, shall constitute a board of State Canvassers, whose duty it shall be to meet at the State Capitol on the second Monday of January, next after their election, and canvass the vote for such officers and proclaim the result; but in case any two or more have an equal and the highest number of votes, the Legislature shall by joint session, choose by ballot, one of the equal and the highest number of votes for said office.

Sec. 3. The supreme executive power of the State shall be vested in the Governor, who shall see that the laws are faithfully executed.

Sec. 4. He may require information in writing from the officers of the executive department, upon any subject relating to their respective duties.

Sec. 5. He may, on extraordinary occasions, command by the great seal of Kansas, the militia of the State, and shall, at the commencement of every session, communicate in writing such information as he may possess in reference to the condition of the State, and recommend such measures as he may deem expedient.

Sec. 6. In case of disagreement between the two houses in respect to the time of adjournment, he may adjourn the Legislature to such time as he may think proper, not beyond its regular meeting.

Sec. 7. The pardoning power shall be vested in the Governor, under regulations and restrictions prescribed by law.

Sec. 8. There shall be a seal of the State, which shall be kept by the Governor, and used by him officially; and which shall be the great seal of Kansas.

Sec. 9. All commissions shall be issued in the name of the State of Kansas, signed by the Governor, countersigned by the Secretary of State, and sealed with the great seal.

Sec. 10. No member of Congress, or of either house of the United States, shall hold the office of Governor, except as herein provided.

Sec. 11. In case of the death, impeachment, resignation, removal or other disability of the Governor, the power and duties of the office for the remainder of the term, or until the disability shall be removed, shall devolve upon the President of the Senate.

Sec. 12. The Lieutenant Governor shall be President of the Senate, and shall vote only when the Senate is equally divided. The Senate shall choose a President pro tempore, to preside in case of his absence or impeachment, or when he shall hold the office of Governor.

Sec. 13. If the Lieutenant Governor, while holding the office of Governor, shall be impeached or removed, or shall resign or die, or otherwise become incapable of performing the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled, or the disability removed; and if the President of the Senate shall resign, or die, or otherwise become incapable of performing the duties of the office, the President of the Senate shall act as Governor until the vacancy is filled, or the disability removed.

Sec. 14. Should either the Secretary of State, Auditor, Treasurer, Attorney General, or Superintendent of Public Instruction, become incapable of performing the duties of his office for any of the causes specified in the thirteen sections of this Article, the Governor shall fill the vacancy until the disability is removed, or a successor is elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the unexpired term.

Sec. 15. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law.

lished by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

Sec. 16. The officers of the executive department, and of all public State institutions, shall, at least ten days preceding each regular session of the Legislature, severally report to the Governor, who shall transmit such reports to the Legislature.

SECTION II.—LEGISLATIVE.

Section 1. The Legislative power of this State shall be vested in a House of Representatives and Senate.

Sec. 2. The first House of Representatives under this Constitution shall consist of seventy-five members, who shall be chosen for one year. The first Senate shall consist of twenty-five members, who shall be chosen for two years. After the first election, the number of Senators and members of the House of Representatives shall be regulated by law; but shall never exceed one hundred Representatives and thirty-three Senators.

Sec. 3. The members of the Legislature shall receive as compensation for their services the sum of three dollars for each day's actual service at any regular or special session, and fifteen cents for each mile traveled by the usual route in going to and returning from the place of meeting; but such compensation shall not be paid until the Legislature shall have met.

Sec. 4. No person shall be a member of the Legislature who is not at the time of his election a qualified voter of, and a resident in, the county or district for which he is elected.

Sec. 5. No member of Congress or officer of the United States shall be eligible to a seat in the Legislature. If any person, after his election to the Legislature, be elected to Congress or elected or appointed to any office under the United States, his acceptance thereof shall vacate his seat.

Sec. 6. No person convicted of embezzlement or misuse of the public funds shall have a seat in the Legislature.

Sec. 7. All State officers, before entering upon their respective duties, shall take and subscribe an oath or affirmation to support the Constitution of the United States and the Constitution of this State, and faithfully to discharge the duties of their respective offices.

Sec. 8. A majority of each House shall constitute a quorum. Each House shall establish its own rules; and shall be judge of the elections, returns and qualifications of its own members.

Sec. 9. All vacancies occurring in either House shall be filled by the unexpired term by election.

Sec. 10. Each House shall keep and publish a journal of its proceedings. The yeas and nays shall be taken and entered on the journal on any question of importance, and on every bill or joint resolution, after its passage by a majority of the yeas. Neither House, without the consent of the other, shall adjourn for more than two days, Sundays excepted.

Sec. 11. Any member of either House who shall be absent from the session of the House for more than three days, without leave of absence, or without resolution, or without protest shall, without delay or alteration, be entered on the journal.

Sec. 12. All bills shall originate in the House of Representatives, and be subject to amendment or rejection by the Senate.

Sec. 13. A majority of all the members elected to each House, voting in the affirmative, shall be necessary to pass any bill or joint resolution.

Sec. 14. Every bill and joint resolution passed by the House of Representatives, and signed by the Governor, shall, within two days thereafter, be signed by the presiding officers, and presented to the Governor; if he approve, he shall sign it; but if not, he shall return it to the House of Representatives, which may then enter the objections at large upon its journal, and proceed to reconsider the same. If, after such reconsideration, two-thirds of the members elected shall be in favor of the bill or resolution, it shall be sent to the Governor, and he shall sign it, unless he disapprove it, in which case it shall not become a law.

Sec. 15. Every bill shall be read on three separate days in each House, unless in case of emergency. Two-thirds of the House where such bill is pending may, if deemed expedient, suspend the rules; but the reading of the bill by sections, or its final passage, shall in no case be dispensed with.

Sec. 16. No bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be enacted, unless the true intent and meaning of the act be expressed in its title, or the section or sections amended, and the section or sections so amended shall be repealed.

Sec. 17. All laws of a general nature shall have a uniform operation throughout the State; and in all cases where a special law can be made applicable, no special law shall be enacted.

Sec. 18. All power to grant divorces, is vested in the District Courts, subject to regulation by law.

Sec. 19. The Legislature shall prescribe the time when its acts shall be in force, and shall provide for the speedy publication of the same; and no law of a general nature shall be in force until the same be published. It shall have the power to provide for the election or appointment of officers, and the filling of all vacancies not otherwise provided for in this Constitution.

Sec. 20. The enacting clause of all laws shall be "Be it enacted by the Legislature of the State of Kansas," and no law shall be enacted except by bill.

Sec. 21. The Legislature may confer upon tribunals transacting the county business of the several counties, such powers of local legislation and administration as it shall deem expedient.

Sec. 22. For any speech or debate in either House, the members shall not be questioned elsewhere. No member of the Legislature shall be subject to arrest—except for felony or breach of the peace—going to, or returning from, the place

of meeting, or during the continuance of the session; neither shall he be subject to the service of any civil process during the session, nor for fifteen days previous to its commencement.

Sec. 23. The Legislature, in providing for the formation and regulation of schools, shall make no distinction between the rights of males and females.

Sec. 24. No money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law; and no appropriation shall be for a longer term than one year.

Sec. 25. All sessions of the Legislature shall be held at the State Capitol, and all regular sessions shall commence annually on the second Tuesday of January.

Sec. 26. The Legislature shall provide for taking a census of the population of the State at least once in ten years. The first enumeration shall be taken in A. D. 1865.

Sec. 27. The House of Representatives shall have the sole power to impeach. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall take an oath to do justice according to the law and the evidence. No person shall be convicted without the concurrence of two-thirds of the Senators present.

Sec. 28. The Governor and all other officers under this Constitution, shall be subject to impeachment for any misdemeanor in office; but judgment in any such case shall not be extended further than to remove the officer from office, and to hold any office of profit, honor or trust under this Constitution; but the party, whether acquitted or convicted, shall be liable to indictment, trial, judgment and punishment, according to law.

SECTION III.—JUDICIAL.

Section 1. The Judicial power of this State shall be vested in a Supreme Court, district courts, probate courts, justices of the peace, and such other courts, inferior to the supreme court, as may be provided by law; and all courts of record shall have a seal to be used in the authentication of their judgments.

Sec. 2. The Supreme Court shall consist of one chief justice and two associate justices (a majority of whom shall constitute a quorum), who shall be elected by the electors of the State at large, and shall hold their offices for six years, and shall be eligible for re-election.

Sec. 3. The Supreme Court shall have original jurisdiction in proceedings in quo warranto, habeas corpus, and mandamus, and such appellate jurisdiction as may be provided by law. It shall hold one term each year at the seat of government, and such other terms at such places as may be provided by law; and its jurisdiction shall be co-extensive with the State.

Sec. 4. There shall be appointed, by the justices of the supreme court, who shall hold their offices two years, and whose duties shall be prescribed by law.

Sec. 5. The State shall be divided into five judicial districts, in each of which there shall be elected, by the electors thereof, a district judge, who shall hold his office for the term of four years. District courts shall be held at such times and places as may be provided by law.

Sec. 6. The district courts shall have such jurisdiction in their respective districts as may be provided by law.

Sec. 7. There shall be elected in each county, two justices of the peace, who shall hold their offices two years, and whose duties shall be prescribed by law.

Sec. 8. There shall be a probate court in each county, which shall be a court of record, and shall have jurisdiction of the estates of deceased persons, minors, and persons of unsound mind, as may be prescribed by law; and shall have jurisdiction in cases of *habes corpus*. This court shall consist of one judge, who shall be elected by the electors of the county, and shall hold his office two years, and shall be eligible for re-election.

Sec. 9. The district courts shall have such jurisdiction in their respective districts as may be provided by law.

Sec. 10. There shall be elected in each county, two justices of the peace, who shall hold their offices two years, and whose duties shall be prescribed by law.

Sec. 11. All the judicial officers provided for by this article shall be elected at the first election under this Constitution, and shall reside in their respective townships, and shall receive no salary for their respective terms of office. If there be a vacancy in any judicial office, it shall be filled by appointment of the governor until the next regular election that shall occur more than thirty days after such vacancy shall have happened.

Sec. 12. All judicial officers shall hold their offices until their successors shall have qualified.

Sec. 13. The justices of the supreme court and judges of the district courts shall, at stated times, receive for their services such compensation as may be provided by law, which shall not be increased during their respective terms of office. *Provided*, Such compensation shall not be less than fifteen hundred dollars to each justice or judge, each year, and such justices or judges shall receive no fees or perquisites, nor hold any other office of profit or trust under the authority of the State, or the United States, during the term of office for which such justices or judges shall be elected, nor practice law, or any other business, during the term of office for which such justices or judges shall be elected.

Sec. 14. Provision may be made by law for the increase of the number of judicial districts whenever two-thirds of the members of each house shall concur. Such districts shall be formed of compact territory and bounded by county lines, and such increase shall not vacate the office of any judge.

Sec. 15. Justices of the supreme court and judges of the district courts may be removed from office by resolution of both houses, if two-thirds of the members of each house concur. But no removal shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice and opportunity to be heard.

Sec. 16. The several justices and judges of the courts of record in this State shall have such jurisdiction at chambers as may be provided by law.

Sec. 17. The style of all process shall be "The State of Kansas," and all prosecutions shall be carried on in the name of the State.

Sec. 18. Until otherwise provided by law, the first district shall consist of the counties of Wyandott, Leavenworth, Jefferson and Jackson. The second district shall consist of the counties of Atchison, Doniphan, Brown, Nemaha, Marshall and Washington. The third district shall consist of the counties of Pottawatomie, Riley, Clay, Dickinson, Davis, Wabawsee and Shawnee. The fourth district shall consist of the counties of Osage, Coffey, Woodson, Greenwood, Madison, Lincoln, Leavenworth, Morris, Chase, Butler and Hunter.

Sec. 19. New or unorganized counties shall, by law, be attached for judicial purposes to the most convenient judicial district.

Sec. 20. Provision shall be made by law for the selection, by the bar, of a pro tempore judge of the district court, when the judge is absent or otherwise unable or disqualified to sit in any case.

SECTION IV.—ELECTIONS.

Section 1. All elections by the people shall be by ballot, and all elections by the Legislature shall be by viva voce.

Sec. 2. General elections shall be held annually on the Tuesday succeeding the first Monday in November. Township elections shall be held on the first Tuesday in April, until otherwise provided by law.

SECTION V.—SUFFRAGE.

Section 1. Every white male person of twenty-one years and upwards belonging to either of the following classes—who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote, at least thirty days next preceding such election—shall be deemed a qualified elector.

1st. Citizens of the United States; 2d. persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.

Sec. 2. No person under guardianship, non compos mentis or insane, shall be qualified to vote; nor any person convicted of treason or felony, unless restored to civil rights.

Sec. 3. No soldier, seaman or marine in the army or navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of being stationed within the same; nor shall any soldier, seaman or marine be entitled to vote in any election.

Sec. 4. The Legislature shall pass such laws as may be necessary for ascertaining the proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.

Sec. 5. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or shall go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

Sec. 6. Every person who shall have given or offered a bribe to procure his election, shall be disqualified from holding office during the term for which he may have been elected.

Sec. 7. Electors, during their attendance at elections, and in going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony, or breach of the peace.

SECTION VI.—EDUCATION.

Section 1. The State Superintendent of Public Instruction shall have the general supervision of the common school funds and every department of the State, and perform such other duties as may be prescribed by law. A Superintendent of Public Instruction shall be elected in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law.

Sec. 2. The State Superintendent of Public Instruction shall, by law, encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade, embracing normal, preparatory, college and university departments.

Sec. 3. The proceeds of all lands that have been, or may be, granted by the United States to the State, for the support of schools, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of public lands among the several States of the Union, approved Sept. 4, A. D. 1841, and all estates of persons dying without heir or will, and such percent, as may be granted by Congress, on the sale of lands, shall be set apart as a perpetual school fund, which shall not be diminished, but the interest of which, together with all the rents of the lands, and such other means as the Legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of common schools.

Sec. 4. The income of the State school funds shall be disbursed annually, by order of the State Superintendent, to the several county treasurers, and thence to the trustees of the several school districts, in equitable proportion to the number of children and youth resident therein, between the ages of five and twenty-one years. *Provided*, That no school district, in which a common school has not been opened, shall receive more than three months in each year, shall be entitled to receive any portion of such funds.

Sec. 5. The school lands shall not be sold unless such sale shall be authorized by a vote of the people at a general election, and subject to revaluation every five years, they may be leased for a number of years not exceeding twenty-five, at a rate established by law.

Sec. 6. All money which shall be paid by persons as an equivalent for exemption from military duty, or the clear proceeds of extra, ownership of which shall vest in the taker up; and the proceeds of fines for any breach of the penal laws, shall be exclusively applied in the several counties in which the money is paid or fines collected, to the support of common schools.

Sec. 7. Provision shall be made by law for the establishment, at some eligible and central point, of a State University, for the promotion of literature, and the arts and sciences, including a Normal and an Agricultural department. All funds arising from the sale or rents of lands granted by the United States to the State for the support of a State University, and all other grants, donations or bequests, either

by the State or by individuals, for such purpose, shall remain a perpetual fund, to be called the "University Fund," the interest of which shall be appropriated to the support of the State University.

Sec. 8. No religious sect or sects shall ever control any part of the common school or University funds of the State.

Sec. 9. The State Superintendent of Public Instruction, Secretary of State and Attorney General shall constitute a board of Commissioners, for the management and investment of the School Funds. Any two of said Commissioners shall be a quorum.

SECTION VII.—PUBLIC INSTITUTIONS.

Section 1. Institutions for the benefit of the insane, blind, and deaf and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law. Trustees of such benevolent institutions as may be hereafter created, shall be appointed by the Governor, by and with the advice and consent of the Senate; and upon all nominations made by the Governor, the question shall be taken in yeas and nays, and entered upon the journal.

Sec. 2. A Penitentiary shall be established, the directors of which shall be appointed or elected, as prescribed by law.

Sec. 3. The Governor shall fill any vacancy that may occur in the office aforesaid, until the next session of the Legislature, and until a successor to his appointee shall be confirmed and qualified.

Sec. 4. The respective counties of the State shall provide, as may be prescribed by law, for the insane, blind, deaf and dumb, by reason of age, infirmity, or other infirmity, may have claims upon the sympathy and aid of society.

SECTION VIII.—MILITIA.

Section 1. The Militia shall be composed of all able-bodied white male citizens between the ages of twenty-one and forty-five years, except such as are exempted by the laws of the United States, or of this State; but all citizens of any religious denomination whatever, who, from scruples of conscience, may be exempted from military service, shall be exempted therefrom, upon such conditions as may be prescribed by law.</